



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. V. B. Goar
County Attorney
Blanco County
Johnson City, Texas

Dear Sir:

Opinion No. O-1844

Re: Can the Commissioners Court
of Blanco County legally loan
\$1,500 from the Blanco County
Special Right of Way Fund to
Road Precinct No. 3?

Your request for an opinion of this department
has been received and considered. We quote the applicable
portion of your letter as follows:

"There is about \$2400.00 in the Blanco
County Special Right of Way Fund, which is
maintained by five cent tax per hundred dollar,
per annum. There will be about \$1900.00 in
this fund, after the payment of a \$500.00 bond,
and interest is paid. This tax was voted by
the citizens of the entire County of Blanco.

"Road Precinct No. Three desires to borrow
\$1500.00 of this fund. Question: Can the Com-
missioners Court of Blanco County, Texas, leg-
ally make this loan?"

It is apparent from your letter of January 19,
1940 that the Blanco County Special Right of Way Fund is
clearly a sinking fund, and is a fund created for extin-
guishing and paying a funded debt.

In the Revised Civil Statutes, we find only
three Articles which provide for the investment of sink-
ing funds, such as here involved.

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"Article 779. Investment of sinking fund. - The Commissioners' Courts may invest sinking funds accumulated for the redemption and payment of any bonds issued by such county, political subdivision or defined district thereof, in bonds of the United States, of Texas, or any county in this State; or in bonds of the Federal Farm Loan Bank System. No such bonds shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created."

"Article 836. Investments. - The legally authorized governing body of any county, city or town, or the trustees of any school district or school community, may invest their respective sinking funds for the redemption and payment of the outstanding bonds of such county, city or town, or community, in bonds of the United States, war-savings certificates, and certificates of indebtedness issued by the Secretary of the Treasury of the United States, and in bonds of Texas, or any county of this State, or of any incorporated city or town. No such bonds shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created."

"Article 837. Secondary Investments. - In the event a governing body is unable to purchase securities of the character mentioned in the preceding article, which mature at a date prior to the time of maturity of the bonds for the payment of which such sinking fund was created, then they may invest such funds in the bonds of any school district or school community authorized to issue bonds, under the same restrictions as provided in the preceding article."

It is the settled law of this State that commissioners courts are courts of limited jurisdiction, having only such powers, duties and authority as the Legislature may confer upon them. In the absence of such conferred authority or power the commissioners court has none. See *El Paso vs. Elam*, 106 S.W. (2d) 393; *Howard vs. Henderson County*, 116 S.W. (2d) 479.

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It will be observed that no provision is made in the three Articles set out above for any loan, investment, or disposition of the sinking fund of a political subdivision such as is contemplated by the Commissioners Court of Blanco County.

Therefore, it is the opinion of this department, and you are respectfully advised that the Commissioners Court of Blanco County cannot lawfully loan the \$1,500.00 taken from the Blanco County Special Right of Way Fund to Road Precinct No. 3.

Trusting that the above satisfactorily answers your inquiry, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Wm. J. Fanning

Wm. J. Fanning
Assistant

By

Grundy Williams

Grundy Williams

APPROVED FEB 6, 1940

Gerard E. Brown

ATTORNEY GENERAL OF TEXAS

GW:pbp

